

April 22, 1949

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ARIZONA ATTORNEY GENERAL

Winkelman
Mr. Barry De Rose
County Attorney
Gila County
Globe, Arizona

Dear Barry:

We acknowledge your letter of April 2 requesting an opinion from this office on the following questions:

- "1. May the Town of Winkelman disincorporate under Section 16-223, A.C.A. 1939 and reincorporate under the style of a common council form of government?
2. May the Board of Supervisors appoint temporary officers until an election can be held?"

We concur in your opinion that the Town of Winkelman may do so.

You state they have complied with the requirements of Section 16-223, A.C.A. 1939, and have the requisite number of names on a petition, therefore, we can see no reason why they should not then proceed to disincorporate and reincorporate under the statute.

In answer to your question No. 2, it appears that the legislature made no provision for the appointment or selection of the new common council under Section 16-223, and we must, therefore, assume that they intended to use the common council section, 16-203, which states in part:

" * * * The first common council shall be appointed by the board of supervisors, upon declaring such town incorporated, who shall continue in office until their successors are elected and qualified; and the successors shall be elected by the qualified electors residing in such town, at an election held for such purpose, on the fourth Monday in May following, * * * "

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We are therefore of the opinion that the procedure outlined should be followed and that the Board of Supervisors may properly appoint the first common council.

Trusting this fully answers your inquiry, we are

Very truly yours,

FRED O. WILSON
Attorney General

JOSEPH PYLE RALSTON
Assistant Attorney General

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